

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LAZAR S. KOVACHEVICH,

Plaintiff,

-against-

UNITED STATES FBI,

Defendant.
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VITALIANO, United States District Judge:

Plaintiff, proceeding *pro se*, filed the instant action on September 11, 2006, seeking unspecified damages. The Court grants plaintiff's request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 solely for the purpose of this Order, but dismisses the complaint for the following reasons.

STANDARD OF REVIEW

In reviewing plaintiff's complaint, the Court is mindful that because plaintiff is proceeding *pro se*, his submission should be held "to less stringent standards than formal pleadings drafted by lawyers." Hughes v. Rowe, 449 U.S. 5, 9 (1980). Under 28 U.S.C. § 1915 (e)(2)(B), a district court shall dismiss an *in forma pauperis* action where it is satisfied that the action is "(i) frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." An action is "frivolous" when either: (1) "'the factual contentions are clearly baseless,' such as when allegations are the product of delusion or fantasy," or (2) "the claim is 'based on an indisputedly meritless legal theory.'" Livingston v. Adirondack Beverage Co., 141 F.3d 434, 437 (2d Cir. 1998) (internal citations omitted).

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MEMORANDUM AND ORDER
06-CV-5033 (ENV)

dm

BACKGROUND

Plaintiff's pleadings, for the most part, consist of irrational and incredible anti-semitic accusations against what plaintiff describes as the "Jewish Mafia." Plaintiff alleges that he

pointed out the truth with respect to Kosovo 'refuges', the truth that was not provided to Clinton-Gore Administration by the FBI and CIA at a time they needed it. There was no single word, sign or action by the Plaintiff that he will conduct terrorism and bombing. The opposite is true. Since September 2000 the Plaintiff is subjected on a daily basis to terror, harassment, illegal intentional and willful discrimination in employment, humiliation, exercised and executed by the authority of the Federal Bureau of Investigation and its Proxies, performed at plaintiff's home, at work, on the streets, in theater, in libraries, at airports, in communications with people and his family, everywhere. The [sic] all those years the Plaintiff lives terrifying life, in agony, deadly frightened as he feels his life is endangered since the testimony before the United States Senate Committee has shown that in immediate past few years the FBI agents have killed three (3), dozen of innocent people just to keep secrets. Since the Defendant was permanently during past six years and still is entering, those days and ransack the Plaintiff's apartment any time they want, day and night, the Plaintiff is under permanent threat to be killed. He feels the next day he will not way up. Ever day, every night!

Compl. at 3, ¶¶ 9,10. Plaintiff states that

[t]he question is WHY THE PLAINTIFF IS SWEET LAMB FOR THE ARMADA OF JEWISH PEOPLE employed in the Government and those working outside for the FBI?? In a span of six years I was forced to write and file 14 lawsuits in various courts of this Country. All of them are complaints against the crime and criminals of the Jewish origin. Those complaints have shown that for the Jewish cream-people this is the land of lawlessness.* [sic]. There are at least three 'reasons' for a so aggressive, six years long attack on the life of the Plaintiff the Jewish people maintain with an unmatched attention and faithfulness in breaking every affected law.

Compl. at 4, ¶ 12. Plaintiff further states

In the Revenge, 'Judaica Crime Family' have completely destroyed privacy of life of the Plaintiff, the privacy that is protected by the U.S. Constitution and Constitutional Laws. During four years in Florida, as well as in Flushing, New York, where I moved on Nov. 5, 2005, the Jewish Mafia is on a daily basis in my

apartment. As I leave apartment they are in it. As the part of harassment they are displacing things in the rooms, as family pictures, the books, turning clock back, deleting messages from the phone left by my children in Australia, stealing documents**, spying my movement for employment, . . . In three Months (during Dec./05, January and February/2006), I found three (3), scorpion-like reptiles brought from South and planted into my bed. The Judaica Crime Family is trying to kill the Plaintiff. In six years they follow every step of movement of the Plaintiff, wherever he goes.

Compl. at 6-7, ¶14.

DISCUSSION


In Denton v. Hernandez, 504 U.S. 25 (1992), the Supreme Court held that a Court may dismiss an *in forma pauperis* claim as factually frivolous if the facts alleged are clearly baseless. "[A finding of] factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible whether or not there are judicially noticeable facts available to contradict them." Denton, 504 U.S. 25 at 33. The Supreme Court has further recognized that a complaint is frivolous when it embraces "not only the inarguable legal conclusion, but also the fanciful factual allegation." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

Plaintiff's complaint imagines a grand conspiracy orchestrated by unidentified Jewish people who directed the FBI to undertake a six year covert campaign which, at best, manifested itself when entities or individuals unaffiliated with the Government of the United States of America allegedly took actions against plaintiff's claimed interests. As such, the complaint is devoid of merit and is clearly frivolous and/or malicious within the meaning of Denton, Neitzke, and § 1915. The Court declines to afford plaintiff leave to amend as amendment would be futile in light of plaintiff's delusional allegations. Cf. Cruz v. Gomez, 202 F.3d 593, 597 (2d Cir. 2000); Platsky v. CIA, 953 F.2d 26 (2d Cir.1991).

CONCLUSION

Accordingly, the complaint filed *in forma pauperis* is dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(b)(i). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.



ERIC N. VITALIANO
United States District Judge

Dated: Brooklyn, New York
September 26, 2006